

125 feet or less. In the event that such fowl or animals are kept in a larger enclosure, the number so kept and maintained may be increased only in the ratio that the above figures of 30 and 40 bear to the increase in the square footage of such larger enclosure.

(Code 1968, § 6-41)

Sec. 6-36. Maintenance of premises where kept.

(a) Pens, hutches, or houses or any enclosure in which fowl, rabbits or guinea pigs are kept must be cleaned and disinfected daily, must be limed every two days and must be kept in a clean and sanitary condition at all times.

(b) Litter and droppings from such fowl, rabbits and guinea pigs must be collected daily and stored in a flytight container and hauled away at intervals of not to exceed seven days. Rabbit and guinea pig hutches must have traps or floors to keep droppings or urine from such animals off the ground.

(Code 1968, § 6-42)

Sec. 6-37. Keeping guineas prohibited.

It shall be unlawful to keep or maintain within the limits of the city any guinea fowl or guinea hens.

(Code 1968, § 6-43)

Sec. 6-38. Permit to keep chicken hens.

Notwithstanding anything in this article it shall be lawful for any person who has obtained a permit therefor from the health officer to keep, possess and maintain no more than seven chicken hens for the purpose of providing such person with fresh unfertilized eggs. A revocable permit therefor may be issued by the health officer for the keeping of seven or less chicken hens under the following conditions:

- (1) The applicant shall furnish or cause to be furnished to the health officer written certification from a licensed physician that in the opinion of such physician the applicant has need of fresh unfertilized chicken eggs for serious reasons pertaining to said person's health.

- (2) The health officer, after inspection by him or his authorized representative, has determined that the premises where the applicant proposes to keep the chicken hens is adequate for the number of chicken hens for which a permit is sought, and that if properly maintained, the keeping of the chicken hens will not create a health hazard or nuisance.

- (3) The permit, if granted, may be revoked upon finding pursuant to a public hearing conducted by the health officer that the permittee cannot or will not maintain the premises in a sanitary condition or that the permittee has failed to permit inspection by the health officer of the place where the hens are kept, provided that the permittee shall be given prior notice of the date, time and place of the hearing setting forth the grounds upon which the revocation is based and affording the permittee an opportunity to appear in person or through counsel, present evidence and cross examine witnesses appearing at such hearing.

(Code 1968, § 6-44; Ord. No. 68-308, § 1, 2-27-68)

Secs. 6-39—6-50. Reserved.

ARTICLE III. KEEPING OF WILD ANIMALS*

Sec. 6-51. Wild animal defined.

As used in this article, the term wild animal shall mean any mammal, amphibian, reptile or fowl of a species that is wild by nature and that, because of its size, vicious nature or other char-

***Editor's note**—Ord. No. 99-404, § 3, adopted April, 28, 1999, states that the provisions of Article III of Chapter 6 of the Code of Ordinances, Houston, Texas, as they read prior to their amendment in Section 1 of this Ordinance are saved from repeal for the limited purposes described by Section 6-57 of the Code of Ordinances, Houston, Texas. Any person who timely applies for and obtains a Special Permit under Section 6-57 shall, subject to full and continuing compliance with all of the provisions thereof, not be in violation of Section 6-52 of the Code of Ordinances, Houston, Texas, as amended in Section 1 of this Ordinance, by virtue of keeping the wild animal(s) authorized in the Special Permit.

acteristics, is dangerous to human beings. Such animals shall include, but not be limited to, lions, tigers, leopards, panthers, bears, wolves, wolf-dog hybrids, cougars, coyotes, coyote-dog hybrids, raccoons, skunks (whether deodorized or not), apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, rhinoceroses, alligators, crocodiles, caymans, fowl larger than a macaw, all forms of venomous reptiles and any snake that will grow to a length greater than eight feet. The term shall also include any animal listed as an "endangered species" under the federal Endangered Species Act of 1973, as amended, or any fowl protected by the federal Migratory Bird Treaty Act. The term wild animal shall not include gerbils, hamsters, guinea pigs, mice and domesticated rabbits.

(Ord. No. 99-404, § 1, 4-28-99)

Sec. 6-52. Possession prohibited.

(a) It shall be unlawful for any person to be in possession of a wild animal within the city.

(b) It shall be unlawful for the owner or other person in possession or control of any lot, tract or parcel of land within the city or any residence or business premises situated thereon to knowingly suffer or permit any other person to be in possession of a wild animal upon the property, residence or premises.

(c) As used in this section, the term to be in possession includes any harboring or keeping of a wild animal, whether on a temporary or permanent basis and includes, without limitation, holding or keeping the wild animal for the temporary and/or limited purpose of sale or transfer or offering of sale or transfer to another person.

(d) It is an affirmative defense to prosecution under this section that the wild animal is being possessed in accordance with all applicable state and federal laws and that:

- (1) The wild animal is being kept for treatment in an animal hospital operated by a veterinarian licensed in Texas;
- (2) The wild animal is being kept at a public zoo that is accredited by a nationally recognized zoological association;

(3) The wild animal is being kept at a shelter operated by a state or federally recognized humane agency for the purpose of its transfer to a refuge or sanctuary;

(4) The wild animal is being kept for medical research or teaching purposes at a medical school or licensed hospital or by a university or college offering an accredited degree program;

(5) The wild animal is in the possession of an airline, motor freight agency, rail freight agency or other carrier, and its possession in the city is incidental to transportation, provided that the wild animal is secured within a cage or other enclosure that is adequate to prevent its escape; or

(6) The wild animal is being kept or transported temporarily for a production in accordance with a permit or registration under section 6-55 of this Code.

(Ord. No. 99-404, § 1, 4-28-99)

Sec. 6-53. Vaccination.

No person shall vaccinate, or attempt to vaccinate, any wild animal against rabies except in strict compliance with any regulations promulgated and published by the Texas Department of Health and in accordance with the current protocol published by the American Veterinary Medicine Association for the vaccination of wild animals.

(Ord. No. 99-404, § 1, 4-28-99)

Sec. 6-54. Penalty.

Violation of any provision of this article is a misdemeanor punishable by a fine of not less than \$500.00, nor more than \$2,000.00. Each wild animal possessed in violation of this article and each day on which it is possessed shall constitute and be punishable as a separate offense.

(Ord. No. 99-404, § 1, 4-28-99)

Sec. 6-55. Temporary permit; registration for productions.

(a) In this section, the term production means any temporary exhibition or use of a wild animal for purposes of a television, movie or stage production, circus or carnival performance, traveling zoo or animal exposition or other similar use.

(b) A temporary and nonrenewable permit to possess a wild animal in the city for a period of not more than 30 days may be obtained from the director for the purpose of a production. The applicant for such a permit shall demonstrate to the director that:

- (1) The wild animal is required for the production;
- (2) The wild animal will be in the direct charge of its trainer or another person who is familiar with the wild animal and has been trained in its handling and care;
- (3) The applicant will, consistent with the size and characteristics of the wild animal, have additional handlers available as required to control the wild animal at any time that it is not confined;
- (4) The owner of each place where the production will take place and the owner of each place where the wild animal will be kept, if different, has consented in writing to its presence;
- (5) The applicant holds a policy of public liability insurance issued by a carrier authorized to write the policy under Texas law in an amount of not less than \$100,000.00, per occurrence, providing coverage in case of injury or death of any person or damage to any property that results from negligence in the control or handling of the wild animal; and
- (6) The wild animal will be kept in such manner as to prevent its escape and to prevent injury to persons not associated with the production.

(c) Applications for permits shall be made in writing to the director upon forms promulgated for that purpose and at least 20 days before the commencement of the production. Each application shall be accompanied by a nonrefundable fee of \$100.00 for five or fewer wild animals, \$200.00 for six to ten wild animals or \$300.00 for 11 or more wild animals.

(d) A permit issued under this section is valid only for the designated production and the keeping of a wild animal in the city for that limited purpose and shall only extend for the duration of the production.

(e) The director shall have the right to inspect a wild animal at any time while it is being kept under a permit issued under this section.

(f) In the event that the director proposes to deny a permit application, the applicant shall be afforded notice of the reasons and an opportunity for a hearing. Following notice, the director may revoke a permit for any violation of this article or applicable state or federal laws. The permit holder shall be afforded an opportunity for a hearing before a permit is revoked. Pending the hearing, the director of health and human services or any deputy or assistant director may suspend the permit if the actions of the permit holder appear to constitute a substantial hazard to public health or safety. Hearings and proceedings shall be conducted in the same manner as provided in chapter 20 of this Code for denials, suspensions and revocations of food dealer's permits.

(g) The provisions of this section shall not be construed to require a person to obtain a city permit if the person holds a current and valid exhibitors license under the federal Animal Welfare Act (7 U.S.C. § 2131 et seq.) or a current and valid circus, carnival or zoo operators license issued under chapter 824 of the Texas Health and Safety Code and is conducting the production under authority of the state or federal license, provided that the person registers his production with the director and provides the following information:

- (1) A description of each wild animal to be kept;
- (2) A copy of the state or federal license or other evidence that the person holds a current and valid state or federal license to keep and use the wild animals for the production;
- (3) Evidence that each person on whose property the production will be presented or

the wild animals will be kept has consented to the presence of the wild animals on the person's property; and

- (4) The name, local address and local telephone number of a person or persons who may be contacted for inspections conducted or notices given by the health officer or in case of any escape, attack or other incident involving the wild animal(s).

The health officer may conduct inspections of wild animals kept pursuant to registrations filed under this section and, in cooperation with responsible state and federal regulatory authorities, may take action as appropriate to ensure that wild animals are kept and exhibited in accordance with applicable state and federal requirements.

(Ord. No. 99-404, § 1, 4-28-99)

Sec. 6-56. Impoundment.

(a) The director shall seize any wild animal possessed in violation of this article and impound the animal at the animal control center or other suitable place. The director, any animal control officer or any police officer of the city may enter any building or property to seize a wild animal therein that is possessed in violation of this article upon consent of an adult occupant of such building or property or one having the right of possession of such building or property, or under a warrant issued by a magistrate.

(b) The director shall impose a fee for the impoundment of a wild animal in the amount of not less than \$50.00 nor more than \$250.00, per animal, and a daily boarding fee of not less than \$5.00 nor more than \$75.00, per animal. The amounts of the fees shall be predicated upon the cost of impoundment, care and feeding of the type of wild animal impounded, and the director may promulgate a schedule of applicable fees for various types of wild animals.

(c) A wild animal that has been impounded for the first time may be redeemed within seven days by its owner if:

- (1) The owner demonstrates that he holds any state or federal license or permit required to keep the animal;

- (2) The animal is not believed to be infected with rabies or any other infectious disease; and

- (3) The owner provides a sworn affidavit setting forth that the wild animal will immediately be removed from the city and will be kept at an identified place where its possession is not unlawful.

The director may require that a wild animal that is released under this subsection be tattooed or otherwise made identifiable in the event that it is again impounded.

(d) Consistent with applicable state and federal laws and regulations, the director shall dispose of any wild animal that is not timely redeemed following its first impoundment and of any wild animal that is again impounded by placing the wild animal in a public zoo or at a reserve, sanctuary or shelter operated by or under the auspices of a recognized humane organization. If such a placement is not practicable and cannot be made within 30 days following the date of impoundment, the wild animal may be destroyed if destruction is not prohibited by state or federal law.

(Ord. No. 99-404, § 1, 4-28-99; Ord. No. 02-575, § 2, 6-26-02)

Sec. 6-57. Special permits.

(a) The provisions of this section are expressly limited to a wild animal that was then lawfully kept and possessed within the city in accordance with all applicable provisions of this article that were in effect on April 27, 1999, and the term "wild animal" as used in this section shall be so limited in its application.

(b) The owner or person in possession of a wild animal may obtain a special permit to continue to keep the wild animal until it dies or is removed from the city upon written application to the director and demonstration that:

- (1) The wild animal was lawfully kept at a specific place within the city on April 27, 1999, in accordance with all provisions of this article as it was then in effect and all applicable state and federal laws and regulations;

- (2) The wild animal has been spayed or neutered, if the animal is of a type that may be sterilized;

- (3) The wild animal has been tattooed with a control number assigned by the director, if the animal is of a type that may be tattooed; and
- (4) The wild animal will be confined in a cage or other enclosure that will reasonably prevent its exposure to any member of the public.

(c) Any such request for a special permit shall be filed with the director within 60 days following April 27, 1999, provided that the director may grant an extension if the director determines that the failure to file within 60 days was not intentional on the part of the applicant.

(d) A special permit issued under this section is exclusively limited to the keeping of the animals specifically identified therein, at the same place where they were kept on April 27, 1999. The special permit shall not be valid at any other location nor shall it apply to any replacement animals or any progeny of the specified animals.

(e) The director may impose an inspection fee to cover the cost of any inspection reasonably required in connection with the issuance of a special permit.

(f) In the event that an application for a special permit is denied, the director shall advise the applicant of the grounds therefor. The director may revoke a special permit for violation of any requirement of this section. In the event that an application is denied or a permit is proposed to be revoked, the applicant or permit holder shall be afforded the right to a hearing on the matter before a hearing officer designated by the director. Proceedings shall be conducted in substantially the same manner as is provided in chapter 20 of this Code for denials and revocations of food dealer's permits.

(Ord. No. 99-404, § 1, 4-28-99)

Note—See the editor's note to Art. III.

Sec. 6-58. Regulations promulgated by the director of health and human services.

Consistent with the provisions of this Code and applicable state and federal laws, the director of health and human services may adopt and imple-

ment regulations regarding the administration of this article and the keeping of wild animals hereunder. A copy of the regulations shall be maintained for inspection in the offices of the city secretary and the director of health and human services, and copies may be purchased at the fees provided by law."

(Ord. No. 99-404, § 1, 4-28-99)

Sec. 6-59. Exceptions to section 6-51.

The provisions of section 6-51 shall not apply to animals kept for treatment in a facility operated by a veterinarian licensed by the state, animals kept in publicly owned zoos, and animals used for research or teaching purposes by a medical school, licensed hospital or nonprofit university or college providing a degree program.

(Code 1968, § 6-52; Ord. No. 76-2286, § 1, 12-29-76; Ord. No. 79-2, § 4, 1-3-79)

Sec. 6-60. Use of live vaccine prohibited; keeping of animals vaccinated by same prohibited; exception.

(a) No person shall vaccinate, or attempt to vaccinate, any wild animal as defined in section 6-52 against rabies by the use of live vaccine.

(b) Except as provided in subsection (c), no person shall possess, keep, permit, or allow any wild animal as defined in section 6-52 within the city if such animal has been vaccinated against rabies with the use of live vaccine.

(c) This section shall not apply to the use of live rabies vaccine for research purposes when such research is conducted by a medical school, licensed hospital or nonprofit university providing a degree program.

(Code 1968, § 6-53; Ord. No. 79-1, § 1, 1-3-79)

Sec. 6-61. Transport of wild animals used for film making, productions, etc.

(a) It is an affirmative defense to prosecution under either section 6-51 or section 6-53 of this Code that the actor was transporting the wild animal by vehicle upon the public streets and that the wild animal was secured within the vehicle being utilized for its transport in such a manner that it could not escape from the vehicle; it could

not come into contact with any person who was not also within or upon the vehicle; and it could not come into contact with the driver of the vehicle while the vehicle was in motion.

(b) It is also an affirmative defense to prosecution under either section 6-51 or section 6-53 of this Code that, at the time of the alleged offense:

- (1) The actor was actually utilizing the wild animal at a production site for the purposes of the production of a motion picture being made for viewing by the general public, or a film or tape designed for use in a television show or television advertisement and in which the use of the wild animal was specified by the script; and
- (2) The actor had the written permission of the person having the right of possession and control of the production site for the use of the wild animal thereupon in the production; and
- (3) The wild animal was in the immediate and direct charge of a person who had been trained in its care and handling and who was responsible to ensure that the animal could not come in contact with persons who had not affirmatively consented to be involved in the production, and who was responsible for the prevention of its escape or of any injuries or damage that it might cause to persons or property at all times during its utilization at the production site, and who had under his control and supervision, at all times such wild animal was present, no fewer than four additional persons over 18 years of age who could assist if needed in controlling such animal; and
- (4) The actor had given the director five days' prior written notice of his intent to utilize the wild animal, specifying the type of wild animal and production activity, the location of the production site, the address of the place where the wild animal would be kept when not in use at the production site, dates and times that the wild animal would be present at the site, and the name and a local address and

telephone number at which the handler of the wild animal could be contacted during the production activity. The notice shall be either mailed, certified mail, return receipt requested, or hand-delivered to the director, c/o Chief, Animal Control Center, 2700 Evela, Houston, Texas 77026.

(c) The director or his representative will have the right to inspect, at any time, any production site where a wild animal is present.

(d) The provisions of section 6-51 and section 6-53 of this Code shall be applicable to the wild animal when it is kept within the city while not being used in the production.
(Ord. No. 86-1767, § 1, 9-30-86)

Secs. 6-62—6-75. Reserved.

ARTICLE IV. DOGS AND CATS

DIVISION 1. GENERALLY

Secs. 6-76—6-85. Reserved.

DIVISION 2. LICENSE AND VACCINATION

Sec. 6-86. License required.

(a) No person shall own, keep, possess, or have control over any dog or cat within the city unless such person has a current city license for such dog or cat, provided that a city license shall not be required for:

- (1) Dogs and cats under the age of four months which are confined in a place owned or under the possession of the person having ownership, possession or control of the dog or cat within an enclosure which is sufficient to prevent escape therefrom;
- (2) Dogs or cats owned by or in the possession or control of persons who are nonresidents of the city, traveling through the city, or temporarily sojourning therein for a period not exceeding 30 days;
- (3) Dogs or cats brought into the city exclusively for the purpose of entry in any show

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or exhibition, and which are actually entered in and kept at such show or exhibition;

- (4) Dogs or cats kept for teaching or research purposes by a medical school, veterinary school, licensed hospital or nonprofit university or college providing a degree program;
- (5) Dogs or cats kept for the purposes of medical observation or treatment in veterinary hospitals;
- (6) Dogs or cats kept in the shelter facilities of a humane organization;
- (7) Dogs or cats originally acquired by the person owning, keeping or having possession thereof within the preceding 30 days;
- (8) Dogs or cats owned by or in custody or under control of persons who have been residents of the city for 30 days or less.
- (9) The dog or cat which is owned by a person who does not reside within the city and:
 - a. The animal has a current rabies vaccination; and
 - b. The animal has a current license as issued by the city, county or other applicable licensing authority governing the licensing of animals in the place where the animal is normally kept by its owner.

In any prosecution under this section, the burden shall be upon the defendant to establish as an affirmative defense that one of the exceptions set out in subparagraph (a)(1) through (a)(9), above, is applicable.

(b) No person shall permit any dog or cat on any premises under his ownership, possession or control unless there is a current license issued for such dog or cat; provided, however, it shall be an affirmative defense that the animal is not required to have a license pursuant to any applicable exception listed in subsection (a) above.

(c) A person may obtain a license for a cat or a dog (either sterilized or unsterilized) by completing the appropriate application therefor, paying the prescribed license fee, and furnishing proof of

vaccination against rabies. Additionally, for a sterilized pet license, proof must be provided that the animal has been sterilized. Except where the health officer is able to determine by external examination that the animal has been sterilized, the proof shall be provided by certificate of a veterinarian. The license must be renewed each year by providing proof of vaccination against rabies and the payment of the renewal processing fee.

(Code 1968, § 6-54; Ord. No. 85-296, § 6, 2-27-85; Ord. No. 93-996, §§ 2, 3, 8-18-93; Ord. No. 03-393, § 3, 4-23-03; Ord. No. 05-104, § 2, 2-2-05)

Sec. 6-87. Tag to be worn.

(a) It shall be the duty of each person having ownership of a dog or cat for which a license is required to be issued under this article to ensure that the license tag furnished by the licensing authority in conjunction with the issuance of the animal's license is worn by the animal at all times. It is a defense to prosecution hereunder that the dog or cat was confined within a building or other totally enclosed structure under the ownership, possession or control of the person having possession of the animal at the time that the animal was not wearing a license tag.

(b) In any prosecution under this article it shall be presumed that no valid license has been issued for an animal hereunder unless the animal was wearing a valid license tag furnished pursuant to section 6-92 at the time of the alleged offense.

(Ord. No. 85-296, § 6, 3-1-85)

Sec. 6-88. Fees.

The following fees and licensing terms shall be applicable for licenses for dogs and cats:

- (1) If the cat or dog has been sterilized, then the owner shall obtain a sterilized pet license for each animal at a fee of \$10.00 for the initial license, with a processing fee of \$2.00 for each subsequent year.
- (2) If a dog or cat has not been sterilized, then the owner shall obtain an unsterilized pet license for the animal at a fee of \$25.00 annually.

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- (3) Senior citizens 60 years of age or older with sterilized dogs or cats shall obtain a sterilized pet license for each such dog or cat for the fee of \$5.00 for the initial license and the regular payment of the renewal processing fee of \$2.00 for each subsequent year.
- (4) Persons who use certified assistance, hearing or seeing dogs that have been sterilized may, upon application, obtain a sterilized pet license without paying for any fee therefor except the renewal processing fee of \$2.00 for each subsequent year.
- (5) In order to partially defray the city's additional costs associated with late issuance and renewal of licenses, a late processing fee of \$10.00 shall be added to the cost of the dog or cat license fees, if the applicant fails to obtain such license within 30 days of the earlier of the following dates:
 - a. The anniversary date of the dog or cat's vaccination against rabies shown on prior dog or cat licenses;
 - b. The date the dog or cat is first brought into the city;
 - c. The date the dog or cat reaches the age of four months;
 - d. The date the applicant first acquired the dog or cat over the age of four months.

For purposes of avoiding the foregoing late processing fee, the date of the application shall be the date that it is actually received by the licensing authority in complete and valid form, including all required certificates; provided, that mailed applications shall be deemed to have been received on the postmark date, if legible.

(Code 1968, § 6-54; Ord. No. 85-296, § 6, 2-27-85; Ord. No. 93-996, § 4, 8-18-93; Ord. No. 03-393, § 4, 4-23-03; Ord. No. 05-104, § 3, 2-2-05)

Sec. 6-88.1. Special clinics; fees.

- (a) From time to time during the months of April through October of each year the health department may conduct special clinics for the

vaccination and licensing of dogs and cats in cooperation with any group or association of veterinarians. Such clinics shall be held only at such times and places as are designated by the director of public health. Prior to each such clinic, the director of public health shall furnish a notice thereof to the city secretary who shall cause the same to be posted in a conspicuous place in City Hall.

(b) The following provisions shall be applicable to any special clinic held pursuant to this section:

- (1) The veterinarians shall agree to reduce their charges below the usual and customary fees for vaccinating a dog or cat at the clinic.
- (2) The city's licensing fee for each dog or cat vaccinated and licensed at the clinic shall be one-half the applicable fee set out in section 6-88 of this Code.

(Ord. No. 85-495, § 1, 4-9-85; Ord. No. 85-1383, § 1, 8-13-85)

Sec. 6-89. Duration; transfer.

(a) Each sterilized pet license and unsterilized pet license shall expire upon the first occurrence of any of the following events:

- (1) The expiration of one year from the date of its issuance; or
- (2) The expiration of the current rabies vaccination that was evidenced in the documentation furnished to obtain the license; or
- (3) The death of the animal; or
- (4) The 30th day next following any change of ownership of the animal, unless the license has been amended by that date; or
- (5) The thirtieth day next following any change of the address of the animal's owner unless the license has been amended by that date.

(b) In the event of a change of ownership of the licensed animal or in the event of a change of address of the licensed animal's owner, then the director may cause the license to be amended to reflect such change of owner or address, provided that an application for amendment is received by

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the director within the thirty-day period next following the date of the change. The director may promulgate forms and administrative rules as required for the orderly administration of license amendments and applications therefor. A copy of the administrative rules shall be maintained for public inspection in the offices of the director and the city secretary. No fee shall be imposed for an amendment.

(c) An expired license is of no force and effect. A new license must be obtained on or before expiration if the animal remains subject to licensing by the city hereunder.

(Code 1968, § 6-54; Ord. No. 85-296, § 6, 2-27-85; Ord. No. 93-996, § 5, 8-18-93; Ord. No. 03-393, § 5, 4-23-03; Ord. No. 05-104, § 4, 2-2-05)

Sec. 6-90. Licensing authority.

Licenses required under this article shall be issued by the director. Additionally, the director may deputize any veterinarian or other person not regularly employed by the city as a deputy licensing authority if such person desires to issue licenses hereunder and demonstrates proof of financial responsibility for the fees to be collected and remitted in a form satisfactory to the director. The director may issue administrative rules and regulations relating to the designation of deputy licensing authorities and their issuance of licenses. A copy thereof shall be maintained for public inspection in the offices of the director and the city secretary. A deputy licensing authority may not impose any fee in addition to that specified in this article for the issuance of a license, but the deputy licensing authority may retain \$1.00 or ten percent of the applicable fee, whichever is more, from the fee for each license issued as compensation for his services in issuing the license.

(Code 1968, § 6-54; Ord. No. 85-296, § 6, 2-27-85)

Sec. 6-91. Rabies vaccination required prior to issuance; certification of neutering.

No animal license shall be issued unless there is exhibited to the licensing authority a certificate by a veterinarian showing that the animal to be licensed has been inoculated with a rabies vaccine

approved by the U. S. Department of Agriculture's Veterinary Biologics Division in accordance with the recommendations of the manufacturer, and that such vaccination will not expire prior to the issuance of the license. No animal license shall be issued for an animal as being a spayed or neutered animal unless there is also exhibited to the licensing authority a certificate by a veterinarian or other clear and convincing evidence that the animal has, in fact, been spayed or neutered.

(Code 1968, § 6-54; Ord. No. 85-296, § 6, 2-27-85)

Sec. 6-92. Records.

At the time of issuance of each dog or cat license hereunder, the licensing authority shall furnish a numbered license tag which shall be worn by the animal to evidence the issuance of the city license hereunder. The license tag shall be valid for so long as the animal's license remains valid. The department of public health shall maintain a record of all licenses issued under this article, which shall show the name and address of each person issued a license, the number of the license tag furnished, a description of the dog or cat for which the license is issued, the date of issuance, the fee paid, the place of issuance, the type of rabies vaccine administered and the date of inoculation.

(Code 1968, § 6-54; Ord. No. 85-296, § 6, 2-27-85)

Sec. 6-93. Replacement tags.

In the event of loss or destruction of a license tag, replacement tags shall be available from the director for the payment of a \$2.00 fee, upon satisfactory proof that the dog or cat in question was properly licensed.

(Code 1968, § 6-54; Ord. No. 85-296, § 6, 2-27-85; Ord. No. 93-996, § 6, 8-18-93)

Sec. 6-94. Counterfeiting, destruction of licenses or tags.

The following acts are declared to be unlawful:

- (1) The counterfeiting of dog or cat licenses or tags.
- (2) The willful and malicious destruction of dog or cat license tags.

(Code 1968, § 6-54; Ord. No. 85-296, § 6, 2-27-85)

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Sec. 6-95. When rabies vaccination required; evidence.

(a) No person shall own, possess or have control over any dog or cat within the city that is four months of age or older unless the dog or cat has a current rabies vaccination.

(b) In any prosecution under this section, the burden shall be upon the defendant to prove that the animal is not required to be vaccinated because it is less than four months of age or that the animal was in fact vaccinated within the immediate preceding period of one year. A certificate duly signed by a veterinarian attesting that he administered the vaccination required by this section, bearing the date and type of vaccine and the identification of the dog or cat by breed, color, and sex and the vaccination tag number and the name and address of the owner shall be accepted as evidence of such vaccination.

(Code 1968, § 6-55; Ord. No. 85-296, § 7, 2-27-85; Ord. No. 03-393, § 2, 4-23-03)

Sec. 6-96. Duty of veterinarian.

(a) For purposes of this section the following terms shall have the following meanings:

- (1) *Information bulletin* shall mean the informational bulletin which is described in subsection (b).
- (2) *License application form* shall mean the form prescribed by the city for a dog or cat license application.
- (3) *Vaccination tag* shall mean and include any tag, disk or other item designed or intended to be attached to a dog or cat as evidence that the animal has received a vaccination for rabies.

For purposes of this section a veterinarian shall be deemed to vaccinate an animal whether he personally administers vaccine to the animal or causes or allows the vaccine to be administered under his supervision or his control.

(b) The director shall have information bulletins and license application forms printed. The information bulletins shall contain such information concerning the ordinances regulating dogs and cats as the director finds will aid in enforce-

ment of the city's requirements for licensing animals. The director shall make copies of the information bulletin and the license application form available for distribution to veterinarians and their employees in quantities sufficient to meet their needs under this section, without charge, at the city's animal control center during the center's regular business hours.

(c) Each time that a veterinarian vaccinates a dog or cat for rabies, the veterinarian is encouraged to furnish a copy of the information bulletin to the person presenting the animal for vaccination.

(d) It shall be the duty of each veterinarian who vaccinates any dog or cat for rabies within the city to either:

- (1) License the animal while acting as a deputy licensing authority pursuant to section 6-90 of this Code at the time of the administration of the vaccination; or
- (2) On or before the seventh day following the administration of the vaccination furnish to the chief of the city's bureau of animal regulation and care a copy of the veterinarian's fully executed vaccination certificate for the animal setting forth:
 - a. A description of the dog or cat including its breed, age, color and sex;
 - b. Whether the animal has been neutered (if known or determinable by the veterinarian);
 - c. The serial number of the vaccination tag furnished;
 - d. The name and the current address of the person owning or keeping the animal; and
 - e. The number of the City of Houston registration tag worn by the animal, if any.

Any information required to be provided under item (2) above, may be furnished by actual delivery to the office of the chief of the city's bureau of animal regulation and care or by mailing the same by United States mail, postage prepaid,

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properly addressed to the chief of the city's bureau of animal regulation and care. Notices mailed

in the aforesaid manner shall be deemed furnished upon their deposit with the United States Postal Service, provided that they are in fact received by the city's bureau of animal regulation and care.

(e) Each veterinarian is encouraged to inform any person who is furnished a vaccination tag by the veterinarian, or any agent or employee of the veterinarian, that such vaccination tag does not constitute a city license and to provide such information in writing and in a manner that such information is clearly conspicuous to the reader of the writing.

(Ord. No. 85-296, § 7, 3-1-85; Ord. No. 88-689, §§ 1, 2, 4-27-88)

Secs. 6-97—6-100. Reserved.

DIVISION 3. IMPOUNDMENT OF DOGS RUNNING AT LARGE*

Sec. 6-101. Running at large prohibited.

(a) *Generally.* It shall be unlawful for any person owning or having in his possession any dog to allow such dog to be at large without the owner or person in charge thereof having direct physical control over such dog. An owner or person having in his possession a dog may allow the dog to be at large on property that does not provide the animal with access to a sidewalk or street.

(b) *Dangerous dog running at large prohibited.* It shall be unlawful for any person owning or having in his possession a dog of dangerous or fierce tendencies to allow that dog to be at large. For purposes of this subsection, a dog of dangerous or fierce tendencies shall be defined as one who has previously attacked or bitten a person. A person who violates this subsection shall, upon conviction, be assessed a fine of not less than \$500.00 nor more than \$2,000.00. Each day that

***Cross reference**—Dangerous dogs, § 6-151 et seq.

any violation of this subsection continues shall constitute and be punishable as a separate offense.

(Code 1968, § 6-56; Ord. No. 69-985, § 2, 7-2-69; Ord. No. 70-2, § 2, 1-6-70; Ord. No. 71-942, § 1, 5-25-71; Ord. No. 85-2217, § 2, 12-12-85; Ord. No. 92-1449, § 6, 11-4-92)

Charter reference—Penalties for ordinance violations, Art. II, § 12.

Cross references—Assessment of fines against corporations, § 16-76; payment of fines, § 16-78; credit against fines for incarceration, § 35-6 et seq.

Secs. 6-102—6-110. Reserved.

DIVISION 4. IMPOUNDMENT GENERALLY

Sec. 6-111. Impoundment generally.

(a) It shall be the duty of the animal control officers to take up and take charge of all dogs found to be running at large in contravention of section 6-101 within the city, and to take such dogs to the animal control center or other suitable place, there to be impounded and detained for a period of three calendar days.

(b) If a dog which has been delivered to the animal control center is wearing a city license tag not more than two years old or a current local veterinarian vaccination tag, the person in charge of the center shall notify the owner of the dog by telephone or by mail that such dog has been received by the animal control center. The mailing of notice shall be deemed sufficient notice under this section if it is mailed to the owner at the address shown in the city's records for such license if the dog is wearing a city license tag, or to the address shown in the local veterinarian's records if the animal is not wearing a city license tag but is wearing a local veterinarian's tag.

Dogs wearing a city license tag not more than two years old or a current local veterinarian's tag shall be held in designated pens for the owner for six days from the date the owner was notified by telephone or notice was mailed to the owner. On the seventh day following such notice, the animal may be sold or euthanized at the discretion of the health officer.

(c) The health officer is authorized to negotiate with other local government agencies for the handling of animals under the provisions of this Code. Any contract which is the subject of such negotiations must be approved and its execution authorized by city council as in other contracts entered into by the city.

(Code 1968, § 6-57; Ord. No. 69-985, § 2, 7-2-69; Ord. No. 70-2, § 3, 1-6-70; Ord. No. 78-2552, § 3, 12-19-78)

Secs. 6-112—6-120. Reserved.

DIVISION 5. KENNELS

Sec. 6-121. Kennel license—Required; fee; exception.

(a) Any person in the city conducting, managing or maintaining a dog kennel shall obtain a license to do so from the department and pay a license tax of \$50.00 per year or fraction thereof, regardless of the number of dogs kept.

(b) Such license tax shall be for the calendar year or any part thereof during which such dog kennel shall be maintained, and shall be due and payable in advance on or before January first of each year.

(c) The fee imposed under subsection (a) above shall not be applicable to a kennel which is operated by a humane organization as a shelter facility, provided that the humane organization demonstrates to the licensing authority that the facility is devoted exclusively to the care and custody of sick, injured, lost, abandoned or strayed animals and that the humane organization provides veterinary services for the care of the animals kept therein under the supervision of a veterinarian who is employed or retained by the humane organization. The foregoing fee exemption shall not be construed to exempt the humane organization from maintaining a valid license for any kennel which it may operate or from compliance with any applicable ordinance governing the operation or location of a kennel facility.

(Code 1968, § 6-67; Ord. No. 69-985, § 2, 7-2-69; Ord. No. 82-1109, § 6, 7-13-82; Ord. No. 85-296, § 14, 2-27-85)

Ord. No. 82-1109, § 6, 7-13-82; Ord. No. 85-296, § 14, 2-27-85)

Sec. 6-122. Same—Inspection of premises before issuance.

It shall be required that a sanitary inspection of the premises be made by the veterinary services division of the department before a kennel license required by this division is issued. (Code 1968, § 6-68; Ord. No. 69-985, § 2, 7-2-69; Ord. No. 71-942, § 1, 5-25-71)

Sec. 6-123. Same—Issuance and display of certificate.

A certificate shall be issued by the department to the person paying for a dog kennel license, which certificate shall contain the data specified in section 6-124 and which certificate shall be displayed at all times in a prominent place in the kennel.

(Code 1968, § 6-69; Ord. No. 69-985, § 2, 7-2-69)

Sec. 6-124. Same—Records to be kept.

The department shall keep a permanent record of all dog kennel licenses issued under the terms of this chapter, which record shall show the name and address of all persons being issued a kennel license, the name and address of the kennel, the number of the kennel license, the date issued and the amount paid therefor.

(Code 1968, § 6-70; Ord. No. 69-985, § 2, 7-2-69)

Sec. 6-125. Same—Suspension, revocation.

(a) *Grounds for suspension.* The director of the health department, or deputy director, may suspend any kennel license if any of the following conditions exist at the kennel:

- (1) Animals at the kennel are being deprived of necessary food, care or shelter;
- (2) Animals at the kennel are being cruelly confined or are otherwise being cruelly treated; or
- (3) Unsanitary conditions exist at the kennel to such an extent that those conditions create a

possible medium of the transmission of disease to the animals kept there or to human beings.

Such a suspension is effective upon service of notice as set out in section 6-125(b). Whenever a kennel license is suspended no animal shall be accepted or placed in the kennel and all animals at the kennel on the date the license is suspended shall be removed therefrom as soon as possible, but in no event shall any animal remain in the kennel more than ten (10) days after the date the license was suspended unless it has been reinstated prior to that time.

(b) *Written notice of suspension.* Whenever a license is suspended, written notice shall be given to the licensee, the person in charge of the kennel, or any employee or agent of the licensee. Such notice shall set forth:

- (1) The specific conditions existing at the kennel which are grounds for suspension of the license pursuant to subsection (a) above;
- (2) That a hearing will be held before the director of the health department or his designate;
- (3) The date, time and place of such hearing; and
- (4) That the licensee may appear in person and/or be represented by counsel and may present testimony and cross-examine all witnesses.

Such hearing shall be held not later than seven (7) days after the date the license is suspended.

(c) *Conduct of hearing.* All hearings shall be held by a hearing officer designated by the director of the health department; the said director shall not designate any person to perform the duties of hearing officer under this section who has participated in the inspection or inspections of such kennels, or has prior knowledge of the allegations or circumstances discovered in such inspection or inspections, except that such person designated as hearing officer may, prior to the hearing, receive a copy of the notice given to the licensee or person in charge, and may have acted as hearing officer in any prior hearings concerning a suspension of such kennel license.

All hearings shall be conducted under rules consistent with the nature of the proceedings; pro-

vided, however, the following rules shall apply to such hearing:

- (1) All parties shall have the right to representation by a licensed attorney though an attorney is not required;
- (2) Each party may present witnesses in his own behalf;
- (3) Each party has the right to cross-examine all witnesses; and
- (4) Only evidence presented before the hearing officer at such hearing may be considered in rendering the order.

If the licensee fails to appear at the hearing at the time, place and date specified, the city shall present sufficient evidence to establish a prima facie case showing that conditions exist at the kennel which are grounds for suspension of the license pursuant to subsection (a) above.

(d) *Findings of hearing officer.* If the hearing officer finds conditions which were stated in the notice for grounds for suspension of the license pursuant to subsection (b) above in fact do exist at the kennel, the hearing officer shall make written findings of fact and shall order the license suspended. Provided, however, if the hearing officer finds that the needs of the animals and of public interest will be adequately protected by a warning, he may reinstate the license.

If the hearing officer finds that on the date of the hearing no conditions exist at the kennel which were set out in the notice as grounds for suspension of the license, he shall order such license reinstated. However, reinstatement of such license shall not preclude the city from seeking revocation of the license as set out below.

A copy of the findings and order of the hearing officer shall be served on the licensee, or if the address of the licensee is unknown or the notice has been sent certified mail, return receipt requested and has been returned undelivered, such notice shall be served on the person in charge of the kennel or on any employee or agent of the licensee.

(e) *Correction of conditions; inspection; reinstatement of license.* Whenever the reason for a

suspension no longer exists, the licensee or person in charge of the kennel shall notify the veterinary division of the health department that the conditions under which the license was suspended have been corrected and that an inspection is requested. Such inspection shall be conducted as soon as possible after receiving the request and in no event shall be later than three (3) regular working days after the receipt of the request for an inspection. If such inspection shows that the conditions were in fact corrected, the license shall be reinstated unless the city has given notice that it is seeking revocation of the license.

(f) *Conditions for revocation.* A license to operate a kennel may be revoked if:

- (1) Animals at the kennel are being deprived of necessary food, care or shelter;
- (2) Animals at the kennel are being cruelly treated;
- (3) Unsanitary conditions exist at the kennel to such an extent that those conditions create a possible medium for the transmission of the disease to the animals kept at the kennel or to human beings;
- (4) Conditions stated in subsection (f)(2) and/or (f)(3) above have existed on two (2) or more occasions at the kennel after the kennel has been warned of such conditions by officials of the health department;
- (5) There have been two (2) or more suspensions of the kennel license and conditions which were grounds for such suspensions did in fact exist at the time of the suspension;
- (6) The licensee is shown to have committed any offense involving cruelty to animals;
- (7) The licensee has knowingly employed any person at the kennel or allowed any person to work at the kennel who has been convicted of any offense involving cruelty to animals.

(g) *Written notice of grounds for revocation.* Prior to revocation, written notice shall be given to the licensee or person in charge. Such notice shall set forth:

- (1) The grounds upon which the city will seek revocation of the license;

- (2) The specific conditions upon which the city will rely in seeking revocation of the license;
- (3) That a hearing will be held before the director of the health department or his designated agent;
- (4) The date, time and place of such hearing;
- (5) That the licensee may appear in person and/or be represented by counsel, may present testimony and may cross-examine all witnesses.

Such hearings shall be held in accordance with subsection (c) above. If the licensee fails to appear at the hearing at the time, place and date specified, the city shall present sufficient evidence to establish a prima facie case showing that grounds in fact do exist for the revocation of the license.

(h) *Findings of hearing officer.* After completion of the hearing, the hearing officer shall make written findings as to whether or not grounds exist for revocation of the license. If the hearing officer finds that grounds do exist for revocation of the license, he shall revoke such; provided, however, if the city sought revocation for reasons under subsection (f)(1), (2) and/or (3) above and no grounds exist for revocation under (f)(4), (5), (6) or (7) above, the hearing officer may deny the request for revocation if he finds that the needs of the animals and the public interest will be adequately protected by a warning.

A copy of the written findings shall be served on the licensee. If the address of the licensee is unknown or if such findings have been sent certified mail, returned receipt requested, and returned undelivered, such findings shall be served on the person in charge of the kennel or on an agent or employee of the licensee.

(i) *Removal of animals upon revocation of license.* If the license is revoked, no animal shall be accepted or placed in the kennel and all animals at the kennel on the date the license is revoked shall be removed therefrom as soon as possible, but in no case no later than ten days after notice that the license has been revoked was served on the licensee, his agent or his employee.

(j) *Service of notices.* Any notice provided for in this section may be served by personal delivery or by certified mail, return receipt requested.

(k) *Nonrefundability of license fee; reinstatement of license.* In the event a license is revoked, the city shall not be liable to the licensee for any refund of any part of the license fee. Reinstatement of a license that has been revoked shall require application and payment of a permit fee as if it were an initial application; provided, however, no license shall be issued to the same licensee if the licensee has been convicted of any offense involving cruelty to animals; no license shall be issued to the same licensee within one year of the date a license has been revoked; and no license shall be issued for the same location unless it is shown that adequate precautions have been taken so that the conditions under which the license was revoked shall not reoccur. If there is a dispute between the inspector and a person applying for a license for a place for which a license was revoked as to whether adequate precautions have been taken so that the conditions under which the license was revoked will not reoccur, the applicant may request a hearing before the hearing officer. Such hearing shall be conducted under the same procedures as a hearing for a revocation of a license, however the burden shall be on the applicant to show that adequate precautions have been taken so that the conditions under which the license was revoked will not reoccur.

(Code 1968, § 6-71; Ord. No. 69-985, § 2, 7-2-69; Ord. No. 81-199, § 1, 2-4-81)

Sec. 6-126. Minimum distance of dog kennel from residence, church, school or hospital.

It shall be unlawful for any person to keep, possess or maintain in the city a dog kennel within 100 feet of any actual residence or habitation for human beings, or within 100 feet of any church, school or hospital, other than the residence of the keeper, possessor or owner of such dog kennel, such distance of 100 feet to be measured in a straight line from the nearest point of any kennel, pen, enclosure, or other structure in which such dogs are kept to the nearest point of such actual residence or place of human habita-

tion, or church, school or hospital. This section shall not apply to any dog kennel in existence and in operation on November 12, 1958, but in no instance will an existing dog kennel license be reissued or renewed for the existence of a dog kennel within 30 feet of any actual residence or habitation for human beings, or within 30 feet of any church, school or hospital, other than the residence of the keeper, possessor or owner of such dog kennel, the measurement to be taken in the same manner as specified above for the 100 feet. Should a dog kennel license for a kennel in existence and operating on November 12, 1958, be renewed to the same person or his spouse at the same location, the 30-foot rule prescribed herein shall apply, but should the kennel license be renewed by the same person or his spouse at another location or a renewal kennel license be sought by different persons, then the 100 foot minimum spacing rule shall apply.

(Code 1968, § 6-72; Ord. No. 69-985, § 2, 7-2-69)

Secs. 6-127—6-130. Reserved.

DIVISION 6. ANIMAL SHELTER ADVISORY COMMITTEE

Sec. 6-131. Committee created.

(a) There is hereby created the animal shelter advisory committee ("the committee").

(b) The animal shelter advisory committee shall perform the state law advisory committee functions contemplated in section 823.005 of the Health and Safety Code by rendering advice and assistance to the director regarding the city's compliance with the requirements of chapter 823 of the Health and Safety Code.

(Ord. No. 91-1735, § 1, 12-11-91; Ord. No. 92-859, § 1, 6-24-92; Ord. No. 02-979, § 1, 10-30-02)

Sec. 6-132. Members; terms; offices.

(a) The animal shelter advisory committee shall consist of four members who shall be appointed by the city council in accordance with rule 19 of the city council's rules of procedure, which are codified in section 2-2 of this Code. The four member-

ship positions shall be designated as positions one through four, and the following membership criteria shall appertain:

- (1) Position one shall be filled by a veterinarian who is licensed as such in Texas.
- (2) Position two shall be filled by a municipal or county official.
- (3) Position three shall be filled by a person whose duties include the daily operation of an "animal shelter" as that term is defined in section 823.001 of the Health and Safety Code.
- (4) Position four shall be filled by a person who is an officer or employee of an animal welfare organization.

(b) The members of the committee shall serve for two-year terms commencing on the first day of each even-numbered calendar year and ending on the last day of each odd-numbered calendar year, or when their successors are appointed and qualified.

(c) At their first meeting of each calendar year the members of the committee shall select a chairperson. The member serving in position two of the animal shelter advisory committee shall be the ex officio secretary of the commission.

(Ord. No. 91-1735, § 1, 12-11-91; Ord. No. 92-859, § 1, 6-24-92; Ord. No. 02-979, § 1, 10-30-02)

Sec. 6-133. Meetings; corporation; quorum.

The committee shall meet from time to time at the call of the chairperson, provided that the committee shall meet not less than three times per calendar year. A majority of the members of the committee shall constitute a quorum for the conduct of business. The director shall arrange for a city conference room to be provided for the conduct of meetings. Members shall not be compensated for service, provided that any member who is a city employee shall continue to receive his regular compensation while serving on the committee.

(Ord. No. 91-1735, § 1, 12-11-91; Ord. No. 92-859, § 1, 6-24-92; Ord. No. 02-979, § 1, 10-30-02)

Secs. 6-134, 6-135. Reserved.

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**ARTICLE V. DISPOSITION OF
IMPOUNDED ANIMALS**

Sec. 6-136. Scope.

This article shall apply to, animals and the word "animals" as used herein shall mean, all animals other than those subject to the provisions of chapter 142 of the Texas Agriculture Code (estrays) and those subject to the provisions of article III of this chapter.

Sec. 6-137. Redemption rate after impoundment.

(a) The person entitled to the possession of any animal delivered to the animal control center shall be entitled to have the animal delivered to him at the animal control center upon presentation of satisfactory evidence of ownership, proof of compliance with any other applicable ordinance or statute governing the release of an animal to such owner, and payment of the following charges and fees as applicable, provided such animal is not infected or reasonably believed to be infected with rabies or any other infectious or contagious disease:

(1) Except as otherwise provided in this chapter, the following fees shall be charged for the impoundment of an animal in the animal control center:

a. For animals other than dogs and cats and for sterilized dogs and cats:

1. \$25.00 for the first impoundment of the animal;
2. \$50.00 for the second impoundment of the same animal; and
3. \$75.00 for the third and each subsequent impoundment of the same animal.

b. For unsterilized dogs or cats:

1. \$50.00 for the first impoundment of the animal; a \$20.00 refund may be obtained upon proof of sterilization (mandatory for cats) within 30 days;
2. \$75.00 for the second impoundment of the same animal; a \$20.00 refund may be obtained

upon proof of mandatory sterilization (dogs and cats) within 30 days; and

3. \$100.00 for the third and each subsequent impoundment; a \$20.00 refund may be obtained upon proof of mandatory sterilization (dogs and cats) within 30 days.

The fees specified above for unsterilized dogs or cats shall apply unless the health officer is able to determine by external examination that the animal has been sterilized or the owner presents a certificate from a veterinarian establishing that the animal has been sterilized. Release of an unsterilized animal shall be conditioned as provided in subsection (g) below.

However, no impoundment fee shall be charged for dogs, cats or other small animals delivered to the animal control center by the owner, or for dogs, cats or other small animals placed in custody of the animal control center because the owner of the animal has been arrested and is in the custody of the state.

(2) Purchase of a license as provided in article IV of this chapter if a dog or cat has no valid license.

(3) Except as otherwise specifically provided in this chapter, the director shall impose a daily boarding fee of not less than \$9.25 nor more than \$12.00 per animal. The director may promulgate a schedule of fees for various types of dogs and cats. The fees of impoundment shall be based on the costs for care and feeding of the type of dog or cat impounded. However, when a person seeks delivery of an animal on the first regular working day after a Sunday or after a holiday observed by closure of city offices, no boarding fee shall be charged for the immediately preceding Sunday or holiday unless such Sunday or holiday was within the period

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of quarantine of the animal for rabies observation. Provided further, no boarding fee shall be charged for any dog, cat or other small animal during the time that the owner thereof was in custody of the state when the animal was placed in the custody of the animal control center because such owner had been arrested. The animal control center shall not keep an animal of a person who is in the custody of the state for more than 15 days unless such animal is being held as evidence in a pending court case.

- (4) A rabies vaccination fee of \$12.00 if a dog or cat has not been vaccinated in accordance with the provisions of article IV of this chapter.
- (5) Reasonable expenses for the treatment of the animal for injury or illness. Any veterinarian of the animal control center is hereby specifically authorized to treat an animal for injury or illness when such treatment is found to be reasonably necessary in his judgment. The veterinarian in charge of the animal control center shall, from time to time, establish a uniform schedule of fees for such treatment on the basis of the city's actual costs incurred in providing such services. A copy of the schedule shall be posted at the animal control center, and a copy shall be filed with the city secretary. The minimum fee for veterinary services to any animal shall be not less than \$25.00.
- (6) The fee imposed by section 6-17.1 of this Code for a tattoo placed on the animal unless the animal has been previously tattooed as required therein.

(b) It shall be the duty of the officer in charge of the animal control center to offer for sale any and all healthy animals impounded under the terms of section 6-111 and not redeemed within three days, and to sell the same for cash for the amount of the accrued fees against such animal. The person entitled to the possession of any animal shall be entitled to redeem the same upon paying the purchaser double the amount paid by him for such animal and his reasonable expenses

for keeping the same. Any animal not so redeemed within 30 days from the date of the sale shall become the absolute property of the purchaser.

(c) No animals which have been taken to the animal control center shall be redeemed or sold unless they are vaccinated for rabies, except in such instances where the appropriate official has been furnished with satisfactory proof and evidence that such animal has been inoculated with a rabies vaccine approved by the U. S. Department of Agriculture's Veterinary Biologics Division, and that such immunization will not expire within the licensing year in which such animal is to be released.

(d) The owners of all animals impounded in the animal control center shall be required to redeem the same as provided for in subsection (a) hereof and shall not be permitted to purchase such animal in lieu of paying the redemption fee.

(e) It is hereby made unlawful to remove animals from the animal control center except in accordance with the procedures established herein and the regulations established by the director of the health department.

(f) Any dog or cat impounded in the animal control center that is claimed by the owner that has not been inoculated for rabies in accordance with article IV, which dog or cat cannot be inoculated in accordance with such section due to illness, will be delivered to any veterinary hospital within the city, designated by the owner thereof for further treatment for a fee of \$25.00, provided the veterinarian operating such veterinary hospital agrees to vaccinate such animal for rabies in accordance with article IV prior to releasing the animal from the veterinary hospital, and provided further, that such veterinarian also agrees to furnish a certificate evidencing the vaccination to the animal control center.

(g) Except where the health officer is able to determine by external examination that a dog or cat has been sterilized or the owner has presented a certificate from a veterinarian establishing that the animal has been sterilized, the release of the animal shall be conditioned upon an owner's execution of a written agreement that he will

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have the animal sterilized by a veterinarian and provide written proof thereof to the health officer within 30 days of the date of the animal's release.

It shall be unlawful for anyone to whom an animal has been conditionally released under this subsection to fail to timely cause the animal to be sterilized and to provide a veterinarian's certificate evidencing the sterilization to the health officer within 30 days after the date of the animal's release to the person.

(Code 1968, § 6-58; Ord. No. 69-985, § 2, 7-2-69; Ord. No. 71-942, § 1, 5-25-71; Ord. No. 78-2552, § 4, 12-19-78; Ord. No. 79-2101, § 1, 11-27-79; Ord. No. 82-1109, § 5, 7-13-82; Ord. No. 85-296, §§ 8, 9, 2-27-85; Ord. No. 93-996, §§ 7, 8, 8-18-93; Ord. No. 05-104, § 5, 2-2-05)

Sec. 6-138. Disposal of impounded dogs, cats, other animals not redeemed or sold.

Animals taken up and impounded under the terms of this chapter that are not redeemed as provided in this article shall be disposed of by the city as follows:

- (1) Any animal that is vaccinated and sterilized and is otherwise deemed suitable for adoption, may be offered for adoption through a city facility. The director shall impose an adoption fee of not less than \$45.00 nor more than \$55.00 per animal.
- (2) Any animal that is suitable for adoption as a pet and is not placed for adoption through city facilities, may be placed for adoption through a private nonprofit humane shelter. The director shall establish uniform criteria for the placement of adoptable animals through humane shelters and shall make surplus adoptable animals available to those shelters that meet the criteria. The criteria shall include requirements that animals be vaccinated and sterilized in accordance with law and that the animals be licensed in the jurisdiction where they will be kept.
- (3) All animals that are not placed for adoption shall be destroyed by use of humane

euthanasia procedures as recommended from time to time by the American Veterinary Medical Association.

- (4) Under no circumstances may an animal be sold or donated for research or teaching purposes to a medical school, licensed hospital, or nonprofit university or college.

(Code 1968, § 6-59; Ord. No. 69-985, § 2, 7-2-69; Ord. No. 77-2499, § 1, 12-8-77; Ord. No. 85-296, § 10(b), 2-27-85; Ord. No. 92-860, § 1, 6-24-92; Ord. No. 93-1640, § 1, 12-22-93; Ord. No. 05-104, § 6, 2-2-05)

Sec. 6-139. Euthanasia of animals upon owner's or citizen's request.

The director may accept a dog or cat from the owner thereof for disposal for no charge. No fee shall be charged to a citizen who brings an injured or ill cat or dog to the animal control center for euthanasia. The disposal of such animals shall be accomplished in the same manner as though the animals had been impounded and not redeemed. (Ord. No. 85-296, § 11, 3-1-85; Ord. No. 93-996, § 9, 8-18-93)

Sec. 6-140. Sterilization of dogs and cats.

In accordance with applicable state law the director shall establish procedures to ensure that no unsterilized dog or cat is released from the city's animal control facilities except under the terms of a sterilization agreement as required by chapter 828 of the Health and Safety Code. The provisions of this section shall not apply to animals that are redeemed by their owners or to animals that are sold to an institution of higher education for biomedical research, testing or teaching.

(Ord. No. 92-860, § 2, 6-24-92)

Secs. 6-141—6-150. Reserved.

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ARTICLE VI. DANGEROUS DOGS*

Sec. 6-151. Definitions.

As used in this article the following words and phrases shall have the meanings herein ascribed to them, unless the content of their usage clearly indicates another meaning:

Dangerous dog shall mean any dog that:

- (1) Causes serious bodily injury to any person; or
- (2) Bites one or more persons on two separate occasions within any 365-day period;

unless the dog was provoked by the person or persons injured or bitten. The term "dangerous dog" shall not include any dog kept by the state or a political subdivision of the state for use by peace officers in the performance of their duties. The term "dangerous dog" shall not include any dog kept as a guard dog, provided that it was securely kept within a locked building or within a locked and fenced enclosure at least six feet in height at the time that the person or persons were injured or bitten and the persons injured or bitten had entered the building or enclosure without the consent of the owner or other person in possession thereof.

Hearing officer shall mean the director of health and human services or any assistant or deputy director that he may designate to conduct a hearing under this article which person shall not have participated in any investigation of the facts regarding the alleged dangerous dog.

Licensee shall mean the person holding the license for the dog issued pursuant to division 2 of article IV of this chapter and any other person known by the director to have an ownership interest in the dog.

Serious bodily injury shall mean any physical pain, illness, or any impairment of physical condition that creates a substantial risk of death or causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(Ord. No. 86-795, § 1, 6-3-86)

*Cross references—Rabies control, § 6-17; impoundment dogs running at large, § 6-101 et seq.

Sec. 6-152. Impoundment order; surrender.

(a) Upon receipt of information that any dog situated within the city may constitute a dangerous dog, the director shall cause an investigation to be conducted. If he reasonably believes that grounds exist to declare the dog to be a dangerous dog, then he shall issue a written order that the dog be impounded at the city's animal impoundment facilities.

(b) It shall be unlawful for any person to refuse to surrender any dog for which an impoundment order has been issued to any officer or employee of the city upon presentation of a true copy of the order.

(Ord. No. 86-795, § 1, 6-3-86)

Sec. 6-153. Determination hearing; destruction.

(a) The director of health and human services shall cause written notice to be given to the licensee of the dog that a hearing will be conducted to determine whether the animal is a dangerous dog. Such notice shall include the following:

- (1) The place where the hearing will be conducted.
- (2) The date and time of the hearing, which shall be not later than the fifteenth day after the impoundment of the animal; provided that the director may continue the hearing upon the written request of the licensee or upon the written certification of the attending physician of a person injured by the dog that the injured person is not medically able to attend the hearing, or in the event that it is necessary to give notice of the hearing by newspaper publication.
- (3) That the licensee may appear at the hearing and present evidence, cross examine witnesses and be represented by legal counsel.
- (4) That the dog will be ordered destroyed if the hearing officer finds that it is a dangerous dog.

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- (5) That the licensee may request a probable cause hearing pursuant to section 6-154 of this Code.

The notice may be given by personal delivery or by certified mail, return receipt requested, to the last known address of the licensee. If the director is unable to effect delivery of notice by personal delivery or by mail, then he may cause the notice to be published one time in a newspaper of general circulation and to be posted in a conspicuous public place at the city's animal impoundment facility, each to be done at least seven days prior to the date of the hearing.

(b) The hearing shall be conducted by the hearing officer under rules consistent with the nature of the proceeding. The burden of proof shall be upon the city to establish, by credible evidence presented at the hearing, that the dog is, in fact, a dangerous dog. After the conclusion of the hearing, the hearing officer shall enter a written order with factual findings as to whether the dog is, in fact, a dangerous dog. If he finds that it is a dangerous dog, he shall cause it to be destroyed in a humane manner. If he finds that it is not a dangerous dog, he shall direct that it be forthwith released, provided that it may continue to be held, if required, for the duration of any rabies quarantine period as provided by this Code. (Ord. No. 86-795, § 1, 6-3-86)

Sec. 6-154. Probable cause hearing.

Any licensee whose dog has been impounded may, at any time prior to the hearing scheduled pursuant to section 6-153 of this Code, request an informal probable cause hearing by written request delivered to the office of the director of health and human services. The director shall conduct or designate a hearing officer to conduct the hearing within 48 hours after his receipt of the request, Saturdays, Sundays and city holidays excepted. The hearing shall be conducted informally and the hearing officer may consider city investigative reports, medical records, and affidavits, as well as any testimony or documentary evidence offered by the licensee. If the hearing officer finds that probable cause does not exist to detain the dog for a hearing under section 6-153 of this Code, he shall cause the impound-

ment order to be withdrawn. If the impoundment order is withdrawn, the animal shall be forthwith released, provided that it may continue to be held, if required, for the duration of any rabies quarantine period as provided by this Code. (Ord. No. 86-795, § 1, 6-3-86)

Sec. 6-155. Unlicensed dogs, rabies quarantine.

(a) The provisions of this article shall not be construed to require the issuance of an impoundment order or the conduct of a hearing for the impoundment or destruction of any dog that is found to be running at large in violation of city ordinances. In the event that any dog impounded for such cause is claimed for redemption, the director may, if he has grounds to believe that it is a dangerous dog, issue notice of a hearing pursuant to section 6-153 to the person claiming the dog and continue to hold the dog unless and until it is authorized to be released pursuant to section 6-153 or 6-154.

(b) The provisions of this article shall not be construed to require the issuance of an impoundment order for the impoundment of any dog for rabies quarantine pursuant to applicable provisions of the Code or state law. In the event that a dog is already impounded in the city's facilities for such reason, and the director determines that it may be a dangerous dog, he may issue a notice of hearing under section 6-153 and continue to hold the dog unless and until it is authorized to be released pursuant to section 6-153 or 6-154. (Ord. No. 86-795, § 1, 6-3-86)